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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA
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12 SENGNGUEN KOULAVONGSA,
13 Plaintiff,
14 v.
15 CALIFORNIA, et al.,
16 Defendants.
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Case No.: 16cv1115-JLS (NLS)

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

19 Presently before the Court is the case of *Koulavongsa v. California, et al.* The Court
20 has adopted Magistrate Judge Nita L Stormes's Report and Recommendation and
21 concluded that Petitioner's claims are without merit. (ECF No. 15.)

22 Rule 11(a) governing Section 2254 and 2255 cases establishes that a "district court
23 must issue or deny a certificate of appealability when it enters a final order adverse to the
24 applicant." *See* 28 U.S.C. § 2254. A certificate of appealability is authorized "if the
25 applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C.
26 § 2253(c)(2). "A petitioner satisfies this standard by demonstrating that jurists of reason
27 could disagree with the district court's resolution of his constitutional claims or that jurists
28 could conclude the issues presented are adequate to deserve encouragement to proceed

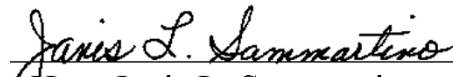
1 further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003); *see also Slack v. McDaniel*, 529
2 U.S. 473, 484 (2000).

3 In the present case, Judge Stormes carefully and thoroughly considered the Petition,
4 (ECF No. 14), and the Court reviewed both Judge Stormes’s Report and Recommendation
5 and the record for clear error, (ECF No. 15). Petitioner at no time objected to Judge
6 Stormes’s Report and Recommendation. (*See* ECF No. 15, at 2.) Ultimately, the Court
7 concluded that Petitioner’s claims were either foreclosed by binding precedent or lacking
8 in evidentiary support. (*Id.*) Given the foregoing, the Court also concludes that no jurist of
9 reason could either disagree with this resolution or conclude that the issues presented are
10 adequate to deserve encouragement to proceed further.

11 The Court therefore **DENIES** a certificate of appealability.

12 **IT IS SO ORDERED.**

13 Dated: March 9, 2017

14 
15 Hon. Janis L. Sammartino
16 United States District Judge
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